

Notice of Allowability

Application No.

09/389,428

Examiner

LIEN TM NGO

Applicant(s)

KUHR ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 3/26/04.
2. ☒ The allowed claim(s) is/are 26,31,32,44,45 and 49.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2/1/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 04/16/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. This application is in condition for allowance except for the presence of claim 28 is drawn to the invention non-elected without traverse. Accordingly, claim 28 has been cancelled.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Robert Null on 4/16/04.

3. The application has been amended as follows:

The claims have been amended as follows:

Claims 1-25 (Cancelled)

Claim 26 [The system of claim 22,] A system that is suitable for collecting bodily fluid from a region of the body of a person to be examined, the system comprising:

a lancing device which is suitable for holding a lancet, the lancet including a needle;

a lancet magazine for storing a plurality of lancets, the lancet magazine comprising an opening into which the lancing device can be inserted to remove an

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individual lancet from the lancet magazine in a first direction substantially parallel to a longitudinal axis of the lancing device; and

a transport device adapted to travel within the lancet magazine in a second direction substantially perpendicular to the first direction to transport lancets in the lancet magazine;

wherein a second opening through which protective sheaths of the lancets can be ejected is located in the lancet magazine in addition to the opening into which the lancing device can be inserted to remove a single lancet from the lancet magazine.

Claim 28 (Cancelled).

Claims 29-30 (Cancelled).

Claim 31 [The system of claim 22,] A system that is suitable for collecting bodily fluid from a region of the body of a person to be examined, the system comprising:

a lancing device which is suitable for holding a lancet, the lancet including a needle;

a lancet magazine for storing a plurality of lancets, the lancet magazine comprising an opening into which the lancing device can be inserted to remove an individual lancet from the lancet magazine in a first direction substantially parallel to a longitudinal axis of the lancing device; and

a transport device adapted to travel within the lancet magazine in a second direction substantially perpendicular to the first direction to transport lancets in the lancet magazine;

wherein a pin is located in the opening of the lancet magazine into which the lancing device can be inserted to remove a single lancet from the lancet magazine, and the pin engages in a guide groove in the tip of the lancing device which is inserted into said opening and thus causes a rotation of the lancing device or a part of the lancing device about its longitudinal axis.

Claim 32 [The system of claim 22,] A system that is suitable for collecting bodily fluid from a region of the body of a person to-be examined, the system comprising:

a lancing-device which is suitable for holding a lancet, the lancet including a needle;

a lancet magazine for storing a plurality of lancets, the lancet magazine comprising an opening into which the lancing device can be inserted to remove an individual lancet from the lancet magazine in a first direction substantially parallel to a longitudinal axis of the lancing device; and

a transport device adapted to travel within the lancet magazine in a second direction substantially perpendicular to the first direction to transport lancets in the lancet magazine;

wherein a guide groove is located in the opening of the lancet magazine into which the lancing device can be inserted to remove a single lancet from the lancet

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magazine, and a pin is located in the tip of the lancing device which is inserted into said opening so that the pin engages the guide groove and thus causes a rotation of the lancing device or a part of the lancing device about its longitudinal axis.

Claims 33-43 (Cancelled).

Claim 44 [The system of claim 43,] A system that is suitable for collecting bodily fluid from a region of the body of a person to be examined, the system comprising:

a lancing device which is suitable for holding a lancet, the lancet including a needle;

a lancet magazine for storing a plurality of lancets, the lancet magazine comprising an opening into which the lancing device can be inserted to remove an individual lancet from the lancet magazine in a first direction substantially parallel to a longitudinal axis of the lancing device; and

a transport device adapted to travel within the lancet magazine in a second direction substantially perpendicular to the first direction to transport lancets in the lancet magazine;

wherein the plurality of lancets in the lancet magazine each include a sterile tip and [further comprising] a protective sheath surrounding the sterile tip.

Claim 45 The system of claim 44, wherein the protective sheath is removed when the lancing device is inserted into the lancet magazine.

Claims 46-48 (Cancelled).

Claim 49 [The system of claim 22,] A system that is suitable for collecting bodily fluid from a region of the body of a person to be examined, the system comprising:

a lancing device which is suitable for holding a lancet, the lancet including a needle;

a lancet magazine for storing a plurality of lancets, the lancet magazine comprising an opening into which the lancing device can be inserted to remove an individual lancet from the lancet magazine in a first direction substantially parallel to a longitudinal axis of the lancing device; and

a transport device adapted to travel within the lancet magazine in a second direction substantially perpendicular to the first direction to transport lancets in the lancet magazine;

wherein the opening has a substantially circular shape.

Claims 50-54 (Cancelled).

4. The following is an examiner's statement of reasons for allowance:

In regard to claim 26, the claim is allowed because the prior art of record does not disclose a system comprising a lancet magazine storing a plurality of lancets; a lancing device holding a lancet including a needle; the lancet magazine having an opening into which the lancing device can be inserted to remove an individual lancet from the lancet magazine; a transport device adapted to travel within the lancet magazine in a direction substantially perpendicular to the direction of lancing device inserted into the opening to transport lancets in the lancet

magazine; and the lancet magazine further comprises a second opening through which protective sheaths of the lancet can be ejected.

In regard to claim 31, the claim is allowed because the prior art of record does not disclose a system comprising a lancet magazine storing a plurality of lancets; a lancing device holding a lancet including a needle; the lancet magazine having an opening into which the lancing device can be inserted to remove an individual lancet from the lancet magazine; a transport device adapted to travel within the lancet magazine in a direction substantially perpendicular to the direction of lancing device inserted into the opening to transport lancets in the lancet magazine; and the lancet magazine further comprises a pin located in the opening to engage in a guide groove in the tip of the lancing device for rotating the lancing device.

In regard to claim 32, the claim is allowed because the prior art of record does not disclose a system comprising a lancet magazine storing a plurality of lancets; a lancing device holding a lancet including a needle; the lancet magazine having an opening into which the lancing device can be inserted to remove an individual lancet from the lancet magazine; a transport device adapted to travel within the lancet magazine in a direction substantially perpendicular to the direction of lancing device inserted into the opening to transport lancets in the lancet magazine; and the lancet magazine further comprises a guide groove located in the opening, the lancing device further comprises a pin located in the tip of the

lancing device; the pin engages the guide groove for causing a rotation of the lancing device.

In regard to claims 44 and 45, the claims are allowed because the prior art of record does not disclose a system comprising a lancet magazine storing a plurality of lancets; a lancing device holding a lancet including a needle; the lancet magazine having an opening into which the lancing device can be inserted to remove an individual lancet from the lancet magazine; and a transport device adapted to travel within the lancet magazine in a direction substantially perpendicular to the direction of lancing device inserted into the opening to transport lancets in the lancet magazine. The lancets include a tip and a protective sheath surrounding the tip.

In regard to claim 49, the claim is allowed because the prior art of record does not disclose a system comprising a lancet magazine storing a plurality of lancets; a lancing device holding a lancet including a needle; the lancet magazine having an opening into which the lancing device can be inserted to remove an individual lancet from the lancet magazine; a transport device adapted to travel within the lancet magazine in a direction substantially perpendicular to the direction of lancing device inserted into the opening to transport lancets in the lancet magazine; and the opening of the lancet magazine has a substantially circular shape.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 703-305-0294. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 703-308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lien Ngo

April 19, 2004

